

Remarks

Claims 1, 8, 18 and 25 have been amended. Claims 5-7, 12-14 and 22-24 have been canceled. Reconsideration and allowance of the pending claims are respectfully requested.

Information Disclosure Statement Objection

The Office Action objected to the Information Disclosure Statement (IDS) filed on April 21, 2006 because it failed to comply with 37 CFR 1.98(a)(1). The IDS appears to have been objected to because no application number was listed on each page of the IDS. Applicant kindly points out that MPEP 609.04(a)(1) requires, "that each page of the list must clearly identify the application number of the application in which the IDS is being submitted, if known." The IDS filed on April 21, 2006 was filed concurrently with the filing of the utility application, and the application number was not known at the time. Applicant respectfully requests that the references submitted on April 21, 2006 be considered, and that the PTO/SB/08 form be initialed by the Examiner to indicate such consideration and a copy thereof returned to the applicant.

Additionally, the Office Action objected to the IDS filed on April 9, 2008 because it failed to comply with 37 CFR 1.98(a)(3). The IDS was objected to because it does not include a concise explanation of the relevance of each patent listed that is not in the English language. Applicant kindly points out that MPEP 609.04(a)(3) states,

"Where the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an "X", "Y", or "A" indication on a search report." An explanation of foreign patent document CN 1482540 can be found in the Written Opinion of the International Searching Authority, mailed May 18, 2006, and enclosed with the filing of the IDS on April 9, 2008. Applicant respectfully requests that the references submitted on April 9, 2008 be considered, and that the PTO/SB/08 form be initialed by the Examiner to indicate such consideration and a copy thereof returned to the applicant.

Specification objection

The Office Action objected to the specification because Field of the invention and summary sections are missing in the specification. Applicant kindly points out that neither the MPEP nor the 37 C.F.R. requires the presence of a "Field of the Invention" or a "Summary of the Invention". They merely indicate where in the application the "Summary of the Invention" should be placed if Applicant chooses to add one. 37 C.F.R. §1.73 only states that a "Summary of the Invention" should or may be included. It does not state "must" or "shall." Accordingly, Applicant has elected not to include a

"Field of Invention" or "Summary of the Invention" as this is within the discretion and right of the Applicant.

Claims Rejections Under 35 U.S.C. 102

The Official Action rejected claims 1-30 under 35 USC 102(b) as being anticipated by Wang (US 2003/0088860). Applicant respectfully requests reconsideration and withdrawal of the present rejection.

As is well-established, in order to successfully assert a prima facie case of anticipation, the Office Action must provide a single prior art document that includes every element and limitation of the claim or claims being rejected. Therefore, if even one element or limitation is missing from the cited document, the Office Action has not succeeded in making a prima facie case.

Claims 1-4, 8-11, 15-21, 25-30 rejections

Each of claims 1-4, 8-11, 15-21 and 25-30 recites "the at least one attribute comprises at least one of information associated with register spilling and restoring instructions within the at least one block, information associated with local variable assignment within the at least one block and information associated with volatile variable access within the at least one block", which is unanticipated by Wang.

Wang teaches a method of optimizing binary code translation from a platform to another platform by using annotation generated during compiling source codes to source binary codes.

The Office Action appears to rely on paragraph 0053 of Wang for the teaching of the attribute comprising information associated with register spilling and restoring instructions within a block. Applicant respectfully submits that paragraph 0053 of Wang teaches Split function ID record is used to identify functions that are part of some other functions. In other words, according to paragraph 0053, a function may be split into several parts and the Split function ID is used to identify the one or more parts of the function. However, according to paragraph 0032 of the present application, register spilling or restoring instruction may refer to an instruction of allocating a value from the register to the memory (spilling) or restoring the value from the memory to the register (restoring), which is different from the split function. Further, Wang does not say anything about the attribute associated with register restoring instruction.

In light of this, Wang does not teach "the at least one attribute comprises at least one of information associated with register spilling and restoring instructions within the at least one block".

Since Wang does not teach each and every limitation of claims 1-4, 8-11, 15-21 and 25-30, Wang does not anticipate the invention of claims 1-4, 8-11, 15-21 and 25-30. Applicant respectfully requests the rejection of claims 1-4, 8-11, 15-21 and 25-30 be withdrawn.

Conclusion

The foregoing is submitted as a full and complete response to the Official Action. Applicant submits that the application is in condition for allowance. Reconsideration is requested, and allowance of the pending claims is earnestly solicited.

Should it be determined that an additional fee is due under 37 CFR §§1.16 or 1.17, or any excess fee has been received, please charge that fee or credit the amount of overcharge to deposit account #02-2666. If the Examiner believes that there are any informalities, which can be corrected by an Examiner's amendment, a telephone call to the undersigned at (503) 439-8778 is respectfully solicited.

Respectfully submitted,

Date: January 5, 2010

/Gregory D. Caldwell/
Gregory D. Caldwell
Reg. No. 39,926

Blakely, Sokoloff, Taylor & Zafman, LLP
1279 Oakmead Parkway,
Sunnyvale, CA 94085-4040
(503) 439-8778